

prior art under §102(a). Accordingly, Applicants respectfully request this rejection be withdrawn.

2. Office Action's Assertions are Improper.

Applicants traverse the Office Action's assertion that they have conceded or "noted" that the Notification is prior art. The Applicants have made no such statement. Applicants simply submitted the Notification as part of an Information Disclosure Statement. Submission of such documents is a routine part of patent prosecution and does implicate an admission that the submitted documents are prior art.

3. A Foreign Rejection cannot be Transmuted into a U.S. Rejection

Applicants assert that a rejection made under a foreign country's laws may not be transmuted into a rejection under U.S. law. See Nintendo of America Inc. v. Magnavox Co., 707 F. Supp. 717, 732 (S.D.N.Y. 1989). Applicants respectfully request that any future Office Action citing the Notification apply either the underlying document (JP 11-167534) or the corresponding U.S. publication of the underlying document (U.S. Patent No. 6,658,456).

4. The Notification Clearly Identifies the Cited References

The Office Action asserts that Notification does not clearly identify "cited document 1." Applicants traverse this assertion.

The Notification clearly identifies "cited document 1" as JP-11-167534. Furthermore, Applicants submit that it is routine practice for foreign Office Actions to refer to an applied reference by a generic name, such as "D1" or "cited document 1."

5. Office Action's Requests are Improper

The Office Action requests Applicants submit certified translations of the Notification. Applicants respectfully traverse this request.

Applicants have a duty to bring to the attention of the Office any material prior art or other information cited in a related foreign application. MPEP §2001.06(a). Applicants

submitted the Notification and a machine translation of the Notification. All the references cited by the Notification have been properly brought to the Office's attention. Thus, Applicants have fulfilled their duty of disclosure under MPEP §2001.06(a).

Furthermore, Applicants assert that a certified translation, as opposed to the submitted machine translation, is not reasonably necessary to properly examine the application. See MPEP §704.

The Office Action also requests that the Applicants submit a "specific identification of documents mentioned in the 'Notification.'" Applicants traverse this request.

The Office Action's request is unclear. As previously mentioned, all references cited by the Notification have been properly disclosed. Therefore, Applicants ask that this request be withdrawn.

IV Conclusion

In view of the foregoing, Applicants respectfully request that this rejection be withdrawn. Applicants submit that this application is in condition for allowance. Favorable consideration and prompt allowance of claims 1-15 are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in better condition for allowance, the Examiner is invited to contact Applicant's undersigned attorney at the telephone number listed below.

Respectfully submitted,



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Date: May 15, 2009

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